

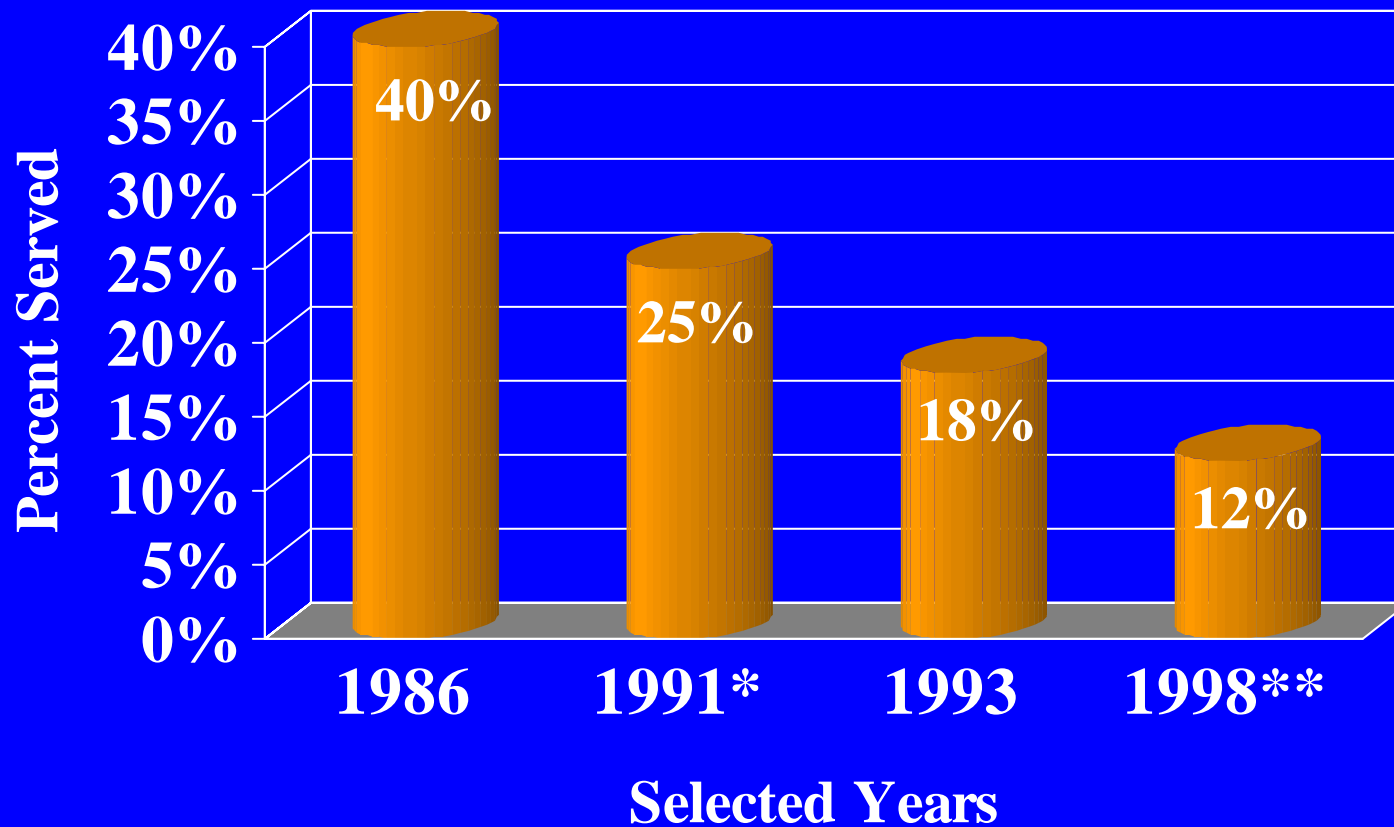
# **SENTENCING REFORM IN NORTH CAROLINA**

**Thomas W. Ross**

# **PROBLEMS IN THE CRIMINAL JUSTICE SYSTEM**

- **JUDICIAL SENTENCES LOSING MEANING**
- **FELONS SERVING ONLY A FRACTION OF  
SENTENCE**

## PERCENT OF SENTENCE SERVED FOR FELONS



\* Sentencing Commission created

\*\* Projected with cap and no new prisons

# **PROBLEMS IN THE CRIMINAL JUSTICE SYSTEM**

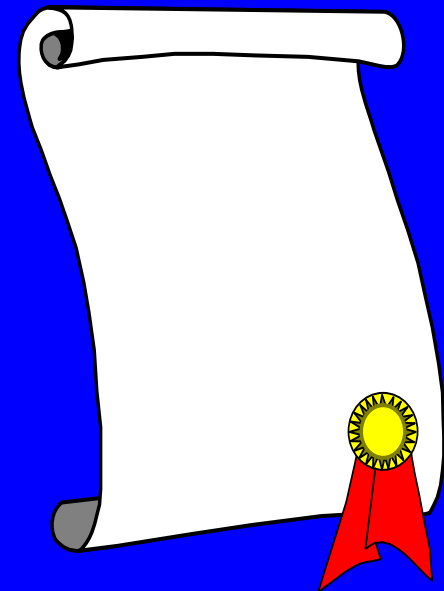
- **JUDICIAL SENTENCES LOSING MEANING**
- **FELONS SERVING ONLY A FRACTION OF SENTENCE**
- **MISDEMEANORS SPINNING THROUGH SYSTEM**
- **PROBATION VIOLATIONS ESCALATING**
- **OFFENDERS REFUSING ALTERNATIVES TO PRISON**
- **PUBLIC CONFIDENCE ERODING**

# THE FIRST STEP

- CREATION OF SENTENCING COMMISSION
- 23 INITIAL MEMBERS
- LEGISLATIVE DIRECTIVES

# LEGISLATIVE DIRECTIVES

- **CONSTRUCT CORRECTIONAL SIMULATION MODEL**
- **CLASSIFY CRIMINAL OFFENSES**
- **RECOMMEND STRUCTURE FOR SENTENCING**
- **DEVELOP COMPREHENSIVE COMMUNITY CORRECTION STRATEGY**
- **CONSIDER OTHER POLICY ISSUES**



# GOALS OF REFORM

- SET PRIORITIES FOR PRISON SPACE
- RESTORE TRUTH IN SENTENCING
- PROVIDE UNDERLYING RATIONALE FOR SENTENCING
- ENHANCE CONSISTENCY IN SENTENCING
- ENHANCE CERTAINTY IN SENTENCING
- MAKE EFFICIENT USE OF RESOURCES
- BALANCE SENTENCING POLICIES WITH RESOURCES

# COMPONENTS OF STRUCTURED SENTENCING

---

**OFFENSE  
STRUCTURE**

**DEFENDANT'S  
PRIOR RECORD**

↓ ↓  
**DISPOSITION**

↓  
**DURATION**



# FELONY CLASSIFICATION CRITERIA\*

## CLASS

## CRITERIA

**A**

- Reserved for First Degree Murder

**[Reasonably tend to result or does result in]:**

**B**

- Serious debilitating long-term personal injury

**C**

- Serious long-term personal injury
- Serious long-term or widespread societal injury

**D**

- Serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling

**E**

- Serious personal injury

*\* Personal injury includes both physical and mental injury. Societal injury includes violations of public morality, judicial or government operations, and/or public order and welfare.*

*Note: The criteria were not used in the classification of the homicide offenses or drug offenses.*

# FELONY CLASSIFICATION

## CRITERIA\*

<u>CLASS</u>	<u>CRITERIA</u>
<b>F</b>	<ul style="list-style-type: none"><li>• Significant personal injury</li><li>• Serious societal injury</li></ul>
<b>G</b>	<ul style="list-style-type: none"><li>• Serious property loss: Loss from the person or from the person's dwelling</li></ul>
<b>H</b>	<ul style="list-style-type: none"><li>• Serious property loss: Loss from any structure designed to house or secure any activity or property Loss occasioned by the taking or removing of property Loss occasioned by breach of trust, formal or informal</li><li>• Personal injury</li><li>• Significant societal injury</li></ul>
<b>I</b>	<ul style="list-style-type: none"><li>• Serious property loss: All other felonious property loss</li><li>• Societal injury</li></ul>
<b>M</b>	<ul style="list-style-type: none"><li>• All other misdemeanors</li></ul>

\* Personal injury includes both physical and mental injury. Societal injury includes violations of public morality, judicial or government operations, and/or public order and welfare.

*Note: The criteria were not used in the classification of the homicide offenses or drug offenses.*

# COMPONENTS OF STRUCTURED SENTENCING

---

**OFFENSE  
STRUCTURE**

**DEFENDANT'S  
PRIOR RECORD**

↓ ↓  
**DISPOSITION**

↓  
**DURATION**

## SCORING PRIOR RECORD/FELONY SENTENCING

(For offenses committed on or after December 1, 1997)

NUMBER	TYPE		POINTS
	Prior Felony Class A Conviction	x 10	
	Prior Felony Class B1 Conviction	x 9	
	Prior Felony Class B2 or C or D Conviction	x 6	
	Prior Felony Class E or F or G Conviction	x 4	
	Prior Felony Class H or I Conviction	x 2	
	Prior Misdemeanor Class A1 or 1 Conviction*, Prior Impaired Driving Conviction, or Prior Impaired Driving in a Commercial Vehicle Conviction	x 1	
		<b>SUBTOTAL</b>	
If all the elements of the present offense are included in any prior offense, whether or not the prior offense was used in determining prior record level		+ 1	
If the offense was committed:  (a) while on probation, parole, or post-release supervision; or (b) while serving a sentence of imprisonment; or (c) while on escape		+ 1	
		<b>TOTAL</b>	

\*Class 1 misdemeanor offenses under Chapter 20 are not assigned any points except for misdemeanor death by vehicle [G.S. 20-141.4(a)(2)]

## **CLASSIFYING PRIOR RECORD LEVEL**

<b>POINTS</b>	<b>LEVEL</b>
0	I
1 – 4	II
5 – 8	III
9 – 14	IV
15 – 18	V
19+	VI

**PRIOR RECORD LEVEL \_\_\_\_\_**

FELONY PUNISHMENT CHART

OFFENSE CLASS

PRIOR RECORD LEVEL						
	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts
A						
B1						
B2						
C						
D						
E						
F						
G						
H						
I						

# COMPONENTS OF STRUCTURED SENTENCING

---

**OFFENSE  
STRUCTURE**

**DEFENDANT'S  
PRIOR RECORD**

↓ ↓  
**DISPOSITION**

↓  
**DURATION**

# **TYPES OF PUNISHMENTS UNDER STRUCTURED SENTENCING**

## **COMMUNITY**

- **Unsupervised Probation**
- **Fines**
- **Day Fines**
- **Treatment Alternatives to Street Crime (TASC)**
- **Outpatient Substance Abuse and Mental Health Treatment**
- **Victim Restitution**
- **Community Service Work**
- **Regular Supervised Probation**

## **INTERMEDIATE**

- **Intensive Supervision Probation**
- **Electronic House Arrest**
- **Day Reporting Center**
- **Residential Facility**
- **Drug Treatment Court**
- **Split Sentence/Special Probation**

## **ACTIVE**

- **Prison**
- **Jail**



# FELONY PUNISHMENT CHART

OFFENSE CLASS

PRIOR RECORD LEVEL						
	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts
A	Death or Life Without Parole					
B1	A	A	A	A	A	A
B2	A	A	A	A	A	A
C	A	A	A	A	A	A
D	A	A	A	A	A	A
E	I/A	I/A	A	A	A	A
F	I/A	I/A	I/A	A	A	A
G	I/A	I/A	I/A	I/A	A	A
H	C/I/A	I/A	I/A	I/A	I/A	A
I	C	C/I	I	I/A	I/A	I/A

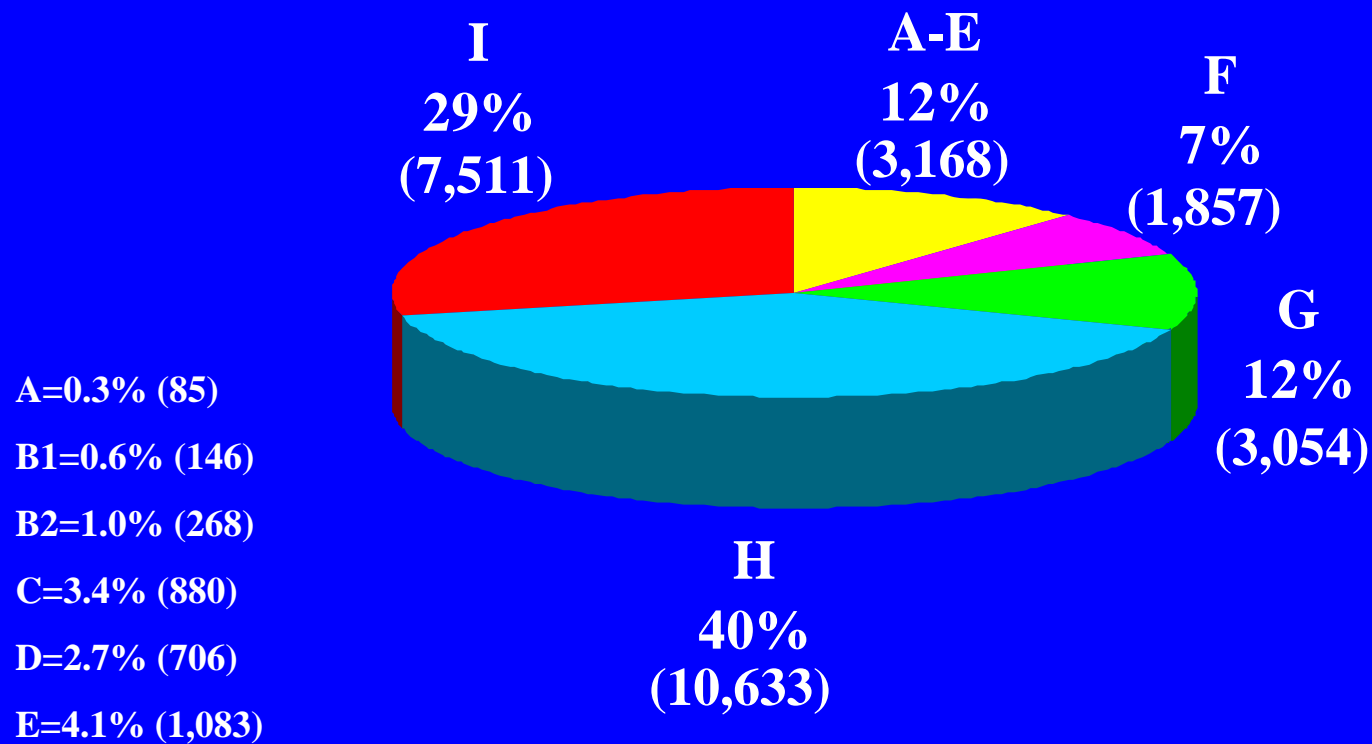
Note: A – Active Punishment I – Intermediate Punishment C – Community Punishment  
 \* Numbers shown are in months and represent the range of minimum sentences.

# DISTRIBUTION OF CONVICTIONS WITHIN THE FELONY STRUCTURED SENTENCING GRID FY 2004/05 FELONIES

Offense Class	Prior Record Level						Total
	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	49	11	14	10	0	1	85
B1	66	45	19	14	0	2	146
B2	81	92	49	26	13	7	268
C	79	165	208	264	88	76	880
D	223	206	125	94	29	29	706
E	399	449	118	81	19	17	1,083
F	587	573	429	193	42	33	1,857
G	609	1,041	703	527	94	80	3,054
H	2,390	3,350	2,281	1,773	534	305	10,633
I	1,790	3,095	1,230	971	221	206	7,511
TOTAL	6,273	9,025	5,176	3,953	1,040	756	26,223

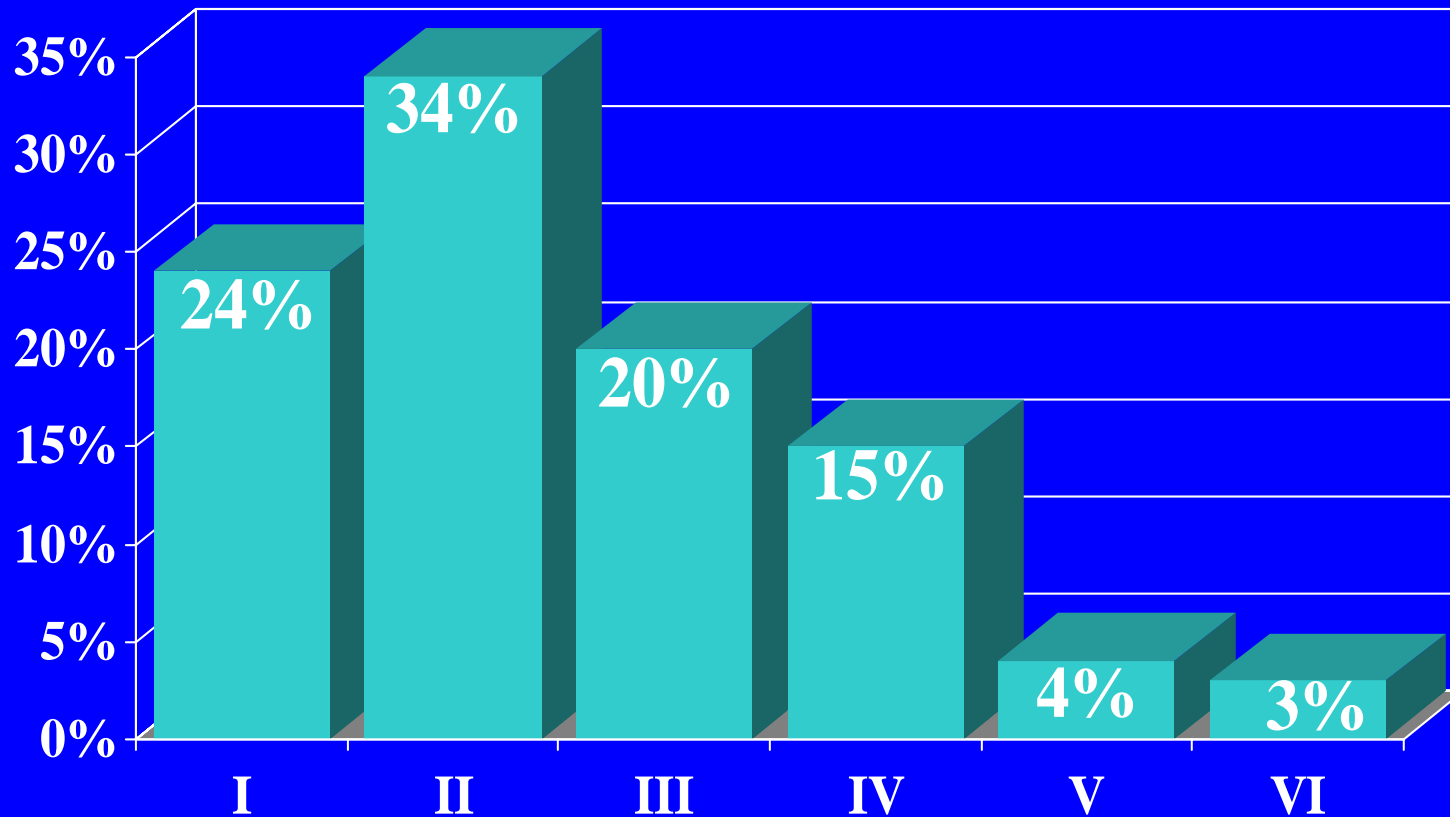
SOURCE: NC Sentencing and Policy Advisory Commission, FY 2004/05 Felony Statistical Report Data

## DISTRIBUTION OF FELONS BY OFFENSE CLASS



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2004/05 Felony Statistical Report Data

## FELONY CONVICTIONS BY PRIOR RECORD LEVEL



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2004/05 Felony Statistical Report Data

# COMPONENTS OF STRUCTURED SENTENCING

---

**OFFENSE  
STRUCTURE**

**DEFENDANT'S  
PRIOR RECORD**

↓ ↓  
**DISPOSITION**

↓  
**DURATION**

\*\*\* Effective for Offenses Committed on or after 12/1/95\*\*\*

## FELONY PUNISHMENT CHART

### PRIOR RECORD LEVEL

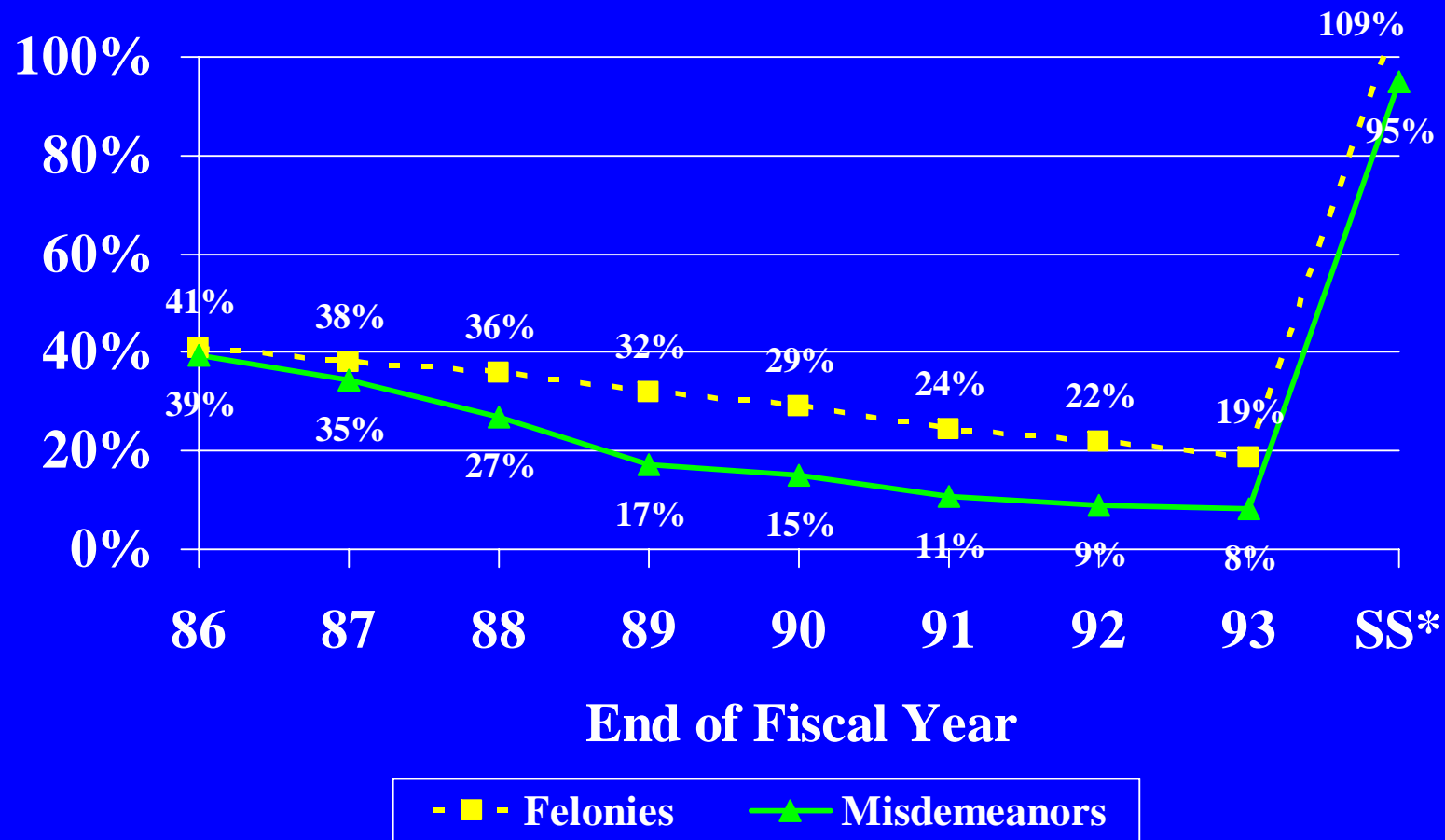
#### OFFENSE CLASS

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
<b>A</b>	<b>Death or Life Without Parole</b>						
<b>B1</b>	<b>A</b> 240-300	<b>A</b> 288-360	<b>A</b> 336-420	<b>A</b> 384-480	<b>A</b> Life Without Parole	<b>A</b> Life Without Parole	<b>DISPOSITION</b> Aggravated Range
	<b>192-240</b>	<b>230-288</b>	<b>269-336</b>	<b>307-384</b>	<b>346-433</b>	<b>384-480</b>	<b>PRESUMPTIVE RANGE</b>
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated Range
<b>B2</b>	<b>A</b> 157-196	<b>A</b> 189-237	<b>A</b> 220-276	<b>A</b> 251-313	<b>A</b> 282-353	<b>A</b> 313-392	
	<b>125-157</b>	<b>151-189</b>	<b>176-220</b>	<b>201-251</b>	<b>225-282</b>	<b>251-313</b>	
	94-125	114-151	132-176	151-201	169-225	188-251	
<b>C</b>	<b>A</b> 73-92	<b>A</b> 100-125	<b>A</b> 116-145	<b>A</b> 133-167	<b>A</b> 151-188	<b>A</b> 168-210	
	<b>58-73</b>	<b>80-100</b>	<b>93-116</b>	<b>107-133</b>	<b>121-151</b>	<b>135-168</b>	
	44-58	60-80	70-93	80-107	90-121	101-135	
<b>D</b>	<b>A</b> 64-80	<b>A</b> 77-95	<b>A</b> 103-129	<b>A</b> 117-146	<b>A</b> 133-167	<b>A</b> 146-183	
	<b>51-64</b>	<b>61-77</b>	<b>82-103</b>	<b>94-117</b>	<b>107-133</b>	<b>117-146</b>	
	38-51	46-61	61-82	71-94	80-107	88-117	
<b>E</b>	<b>I/A</b> 25-31	<b>I/A</b> 29-36	<b>A</b> 34-42	<b>A</b> 46-58	<b>A</b> 53-66	<b>A</b> 59-74	
	<b>20-25</b>	<b>23-29</b>	<b>27-34</b>	<b>37-46</b>	<b>42-53</b>	<b>47-59</b>	
	15-20	17-23	20-27	28-37	32-42	35-47	
<b>F</b>	<b>I/A</b> 16-20	<b>I/A</b> 19-24	<b>I/A</b> 21-26	<b>A</b> 25-31	<b>A</b> 34-42	<b>A</b> 39-49	
	<b>13-16</b>	<b>15-19</b>	<b>17-21</b>	<b>20-25</b>	<b>27-34</b>	<b>31-39</b>	
	10-13	11-15	13-17	15-20	20-27	23-31	
<b>G</b>	<b>I/A</b> 13-16	<b>I/A</b> 15-19	<b>I/A</b> 16-20	<b>I/A</b> 20-25	<b>A</b> 21-26	<b>A</b> 29-36	
	<b>10-13</b>	<b>12-15</b>	<b>13-16</b>	<b>16-20</b>	<b>17-21</b>	<b>23-29</b>	
	8-10	9-12	10-13	12-16	13-17	17-23	
<b>H</b>	<b>C/I/A</b> 6-8	<b>I/A</b> 8-10	<b>I/A</b> 10-12	<b>I/A</b> 11-14	<b>I/A</b> 15-19	<b>A</b> 20-25	
	<b>5-6</b>	<b>6-8</b>	<b>8-10</b>	<b>9-11</b>	<b>12-15</b>	<b>16-20</b>	
	4-5	4-6	6-8	7-9	9-12	12-16	
<b>I</b>	<b>C</b> 6-8	<b>C/I</b> 6-8	<b>I</b> 6-8	<b>I/A</b> 8-10	<b>I/A</b> 9-11	<b>I/A</b> 10-12	
	<b>4-6</b>	<b>4-6</b>	<b>5-6</b>	<b>6-8</b>	<b>7-9</b>	<b>8-10</b>	
	3-4	3-4	4-5	4-6	5-7	6-8	

Note: A – Active Punishment I – Intermediate Punishment C – Community Punishment

\* Numbers shown are in months and represent the range of minimum sentences.

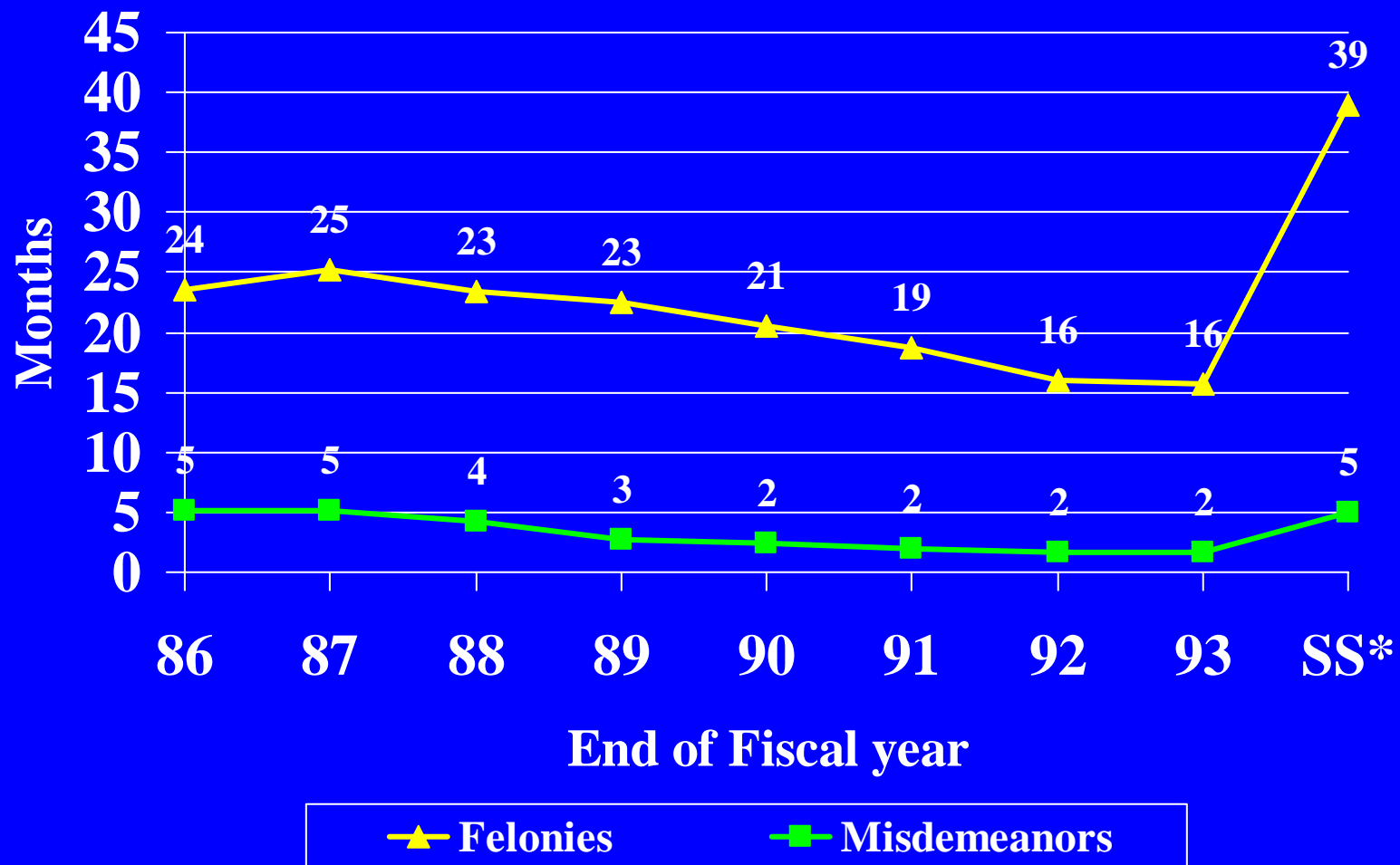
## Average Percent of Sentence Served



\*FY 2004/05 Structured Sentencing Data

SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Correction

## Average Months Served in Prison

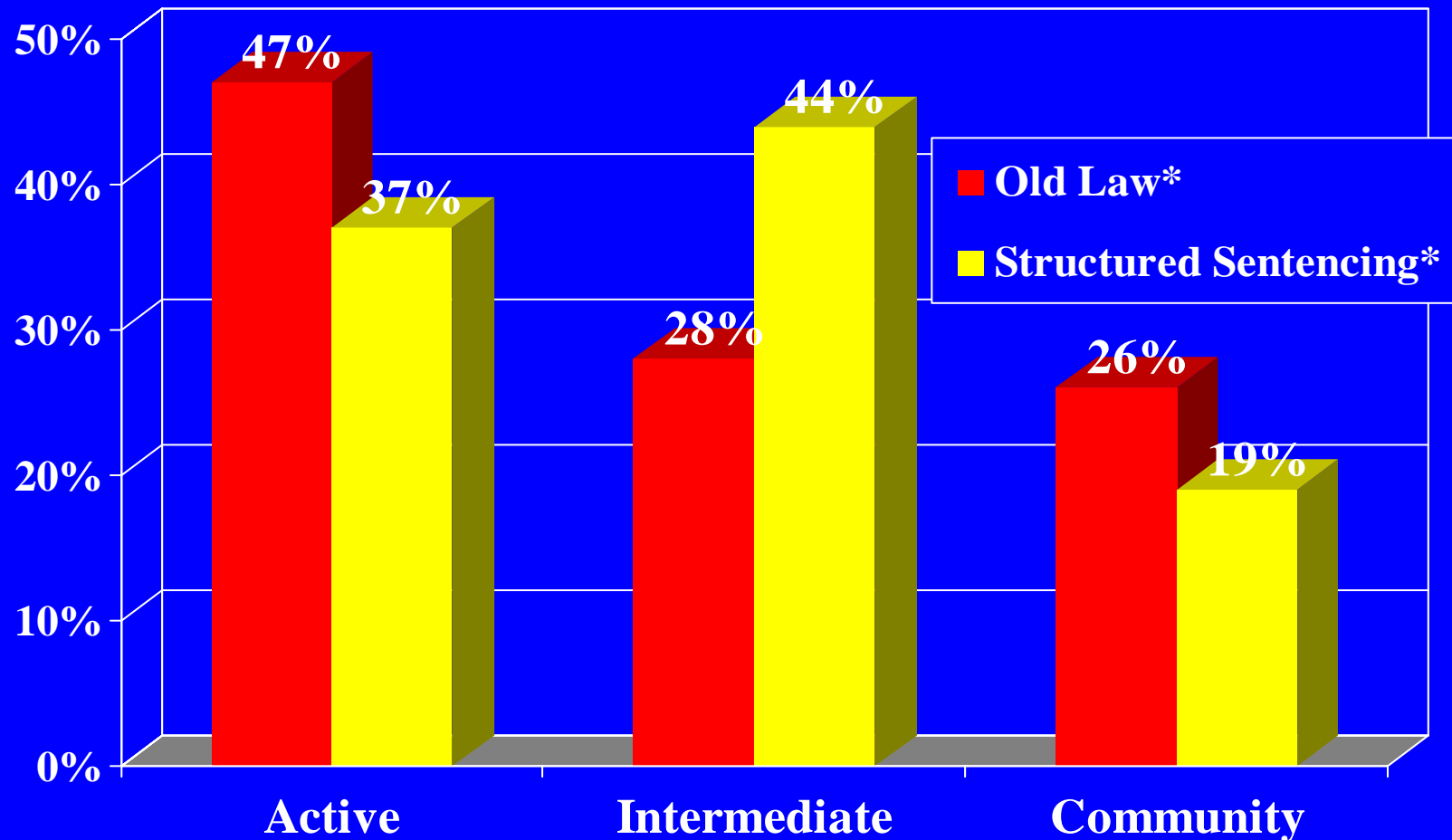


\*FY 2004/05 Structured Sentencing Data

SOURCE: NC Sentencing and Policy Advisory Commission



# TYPE OF PUNISHMENT IMPOSED FOR FELONS



\* NC Sentencing and Policy Advisory Commission, FY 2004/05 Felony Statistical Report Data

\*\* 1993 Pre-Structured Sentencing Data

# PERCENT RECEIVING ACTIVE SENTENCE BY FELONY OFFENSE CLASS

Offense Class	Percent Active: FSA – 1993	Percent Active: SSA – 2004/05
A	100%	100%
B1	100%	100%
B2	97%	100%
C	84%	100%
D	93%	100%
E	52%	49%
F	47%	48%
G	65%	41%
H	45%	38%
I	31%	10%
TOTAL	47%	37%

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2004/05 Felony Statistical Report Data

# AVERAGE MONTHS SERVED BY OFFENSE CLASS

Offense Class	Average Months: FSA – 1993	Average Months: SSA – 2004/05
B1	240	280
B2	92	189
C	55	100
D	73	77
E	25	32
F	23	23
G	22	19
H	12	11
I	7	7
<b>TOTAL</b>	<b>16</b>	<b>39</b>

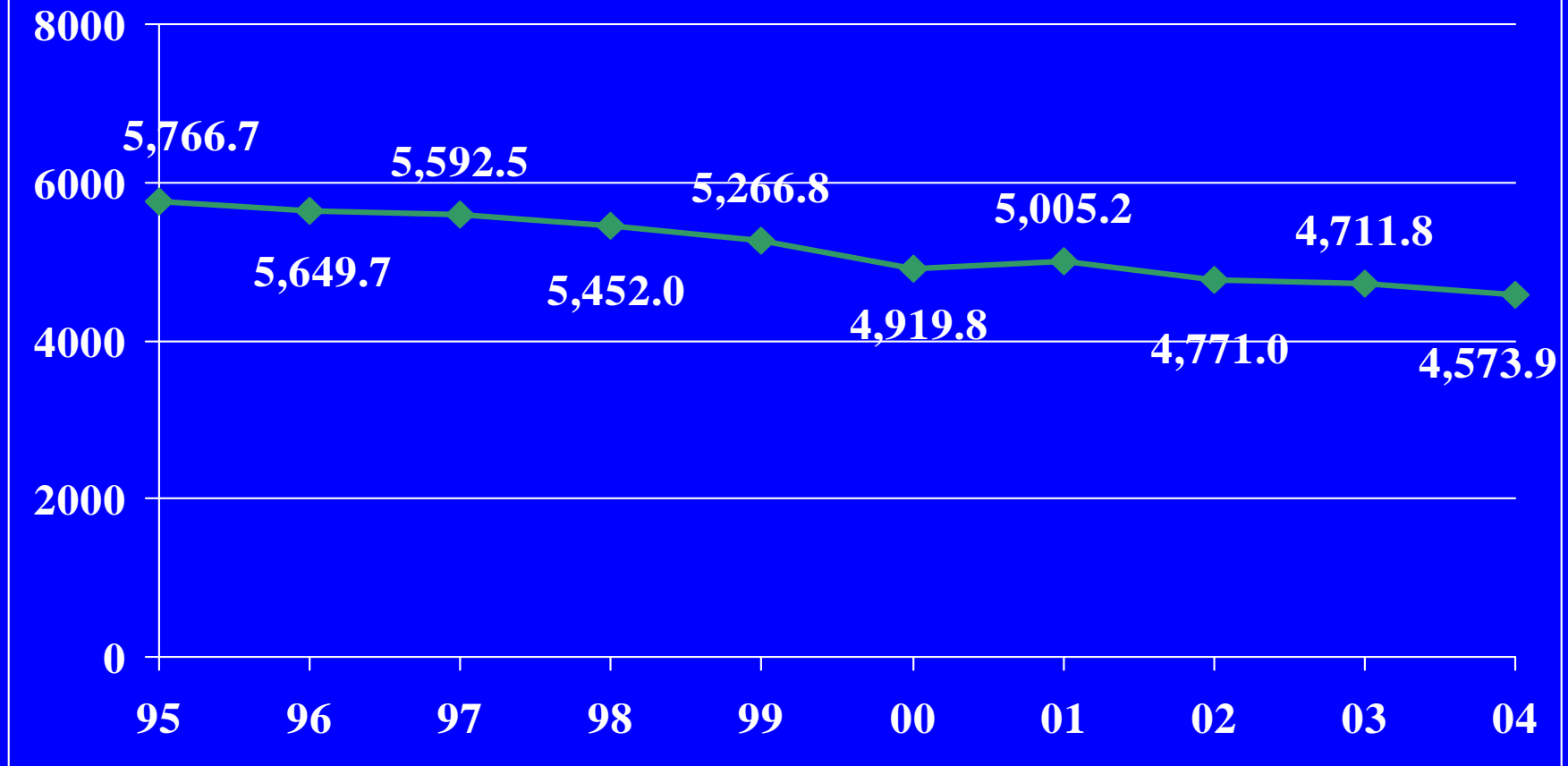
\* Based on CY 1993 data.

\*\* Assumes that felons sentenced under SSA will serve an average of 109% of their minimum sentence. Based on FY 2004/05 Felony Structured Sentencing Simulation data.

SOURCE: NC Department of Correction and NC Sentencing and Policy Advisory Commission

# NC Crime Trends

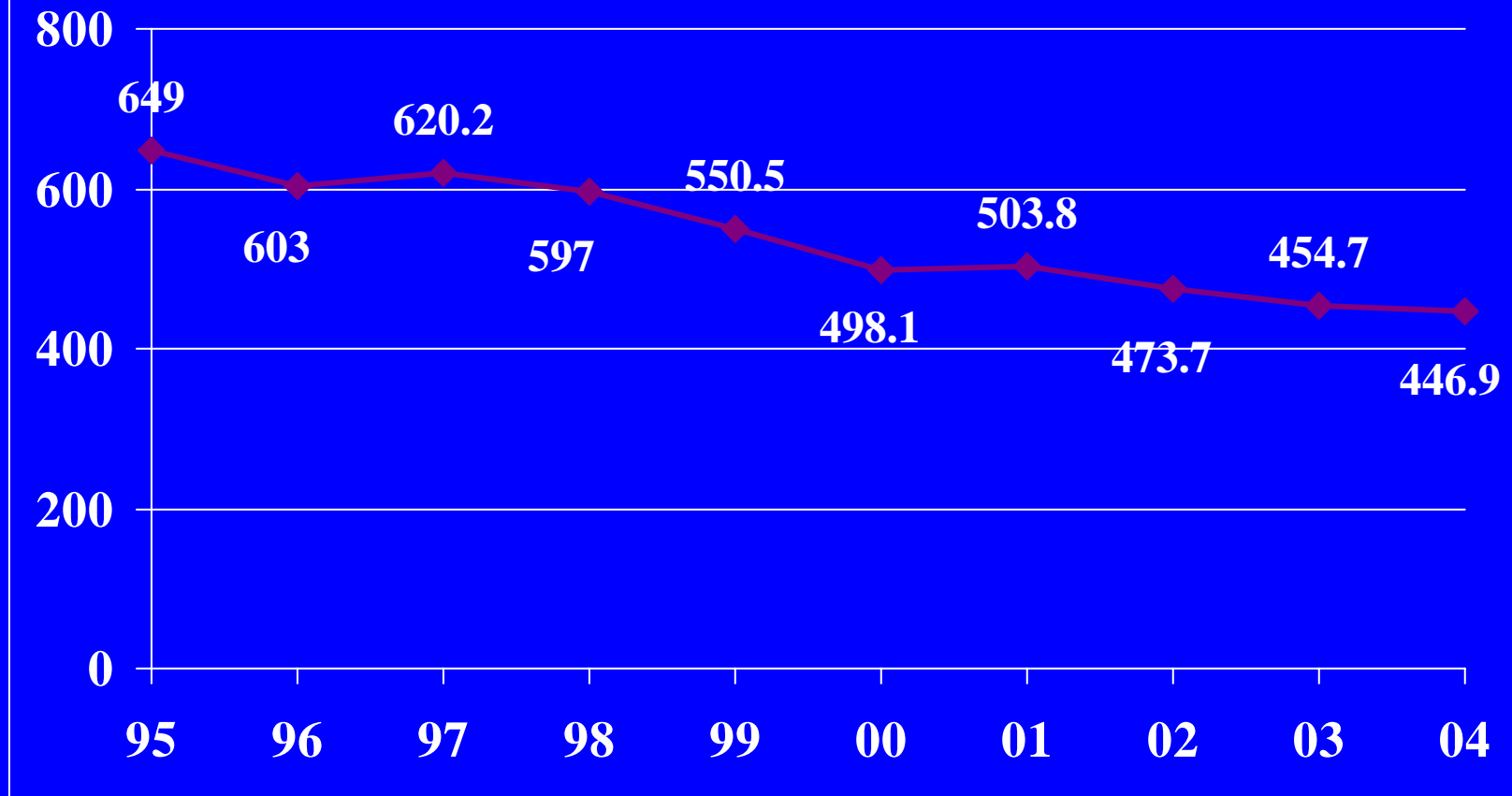
## Index Crime Rate



SOURCE: State Bureau of Investigation, 2004

## NC Crime Trends

### Violent Crime Rate



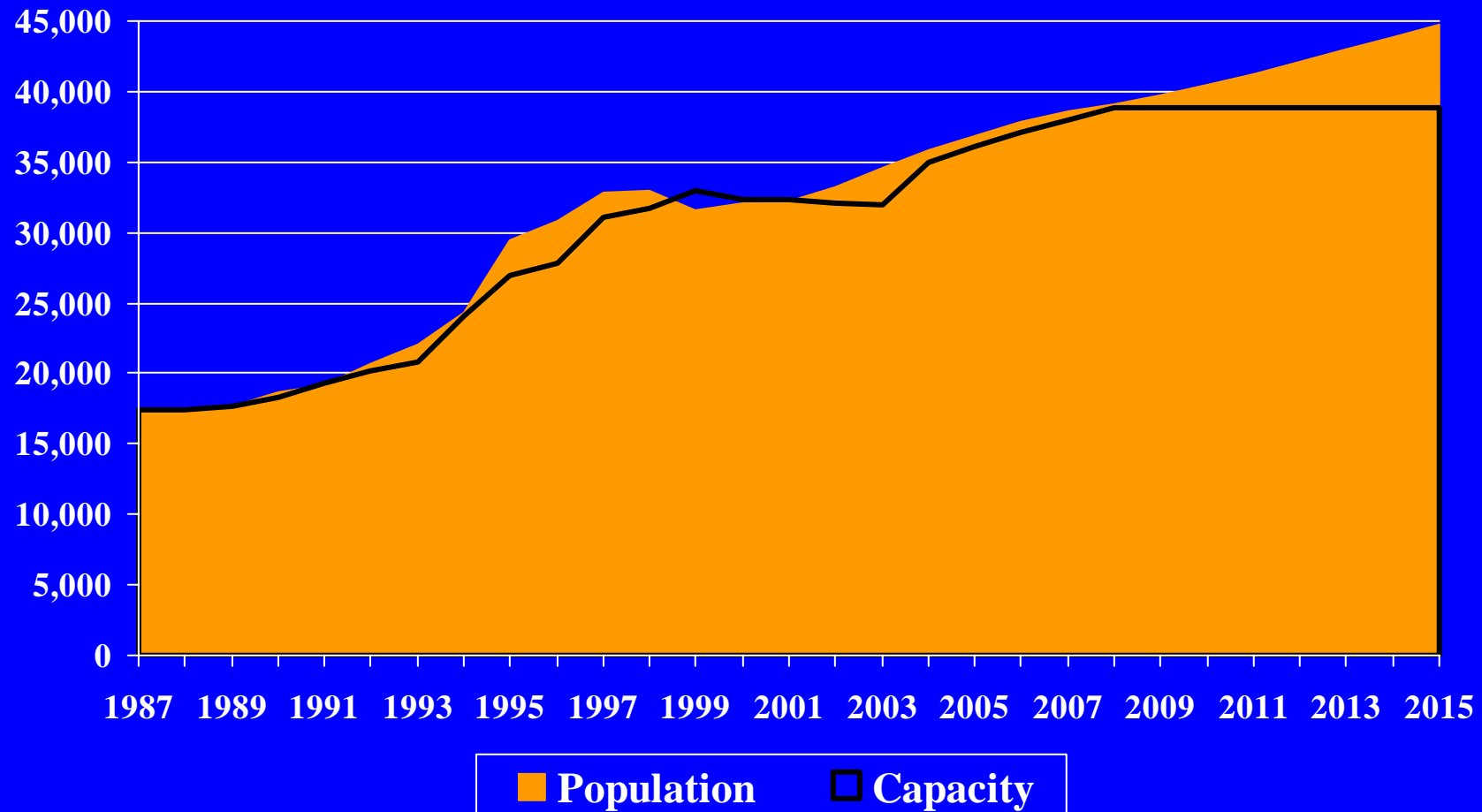
SOURCE: State Bureau of Investigation, 2004

# THE N.C. CRIMINAL JUSTICE SYSTEM TODAY

- TRUTH IN SENTENCING RESTORED
- ANNUAL PROJECTIONS TO HELP PLAN PRISON CAPACITY
- NO PAROLE FOR OFFENDERS SENTENCED UNDER STRUCTURED SENTENCING
- PRISON CAP REPEALED
- VIOLENT OFFENDERS SERVING LONGER SENTENCES
- TOUGHER COMMUNITY PUNISHMENTS
- PUNISHMENT MORE CERTAIN AND CONSISTENT
- SENTENCING POLICY FORMULATED IN CONSIDERATION OF CORRECTIONAL RESOURCES

# NC PRISON POPULATION AND CAPACITY

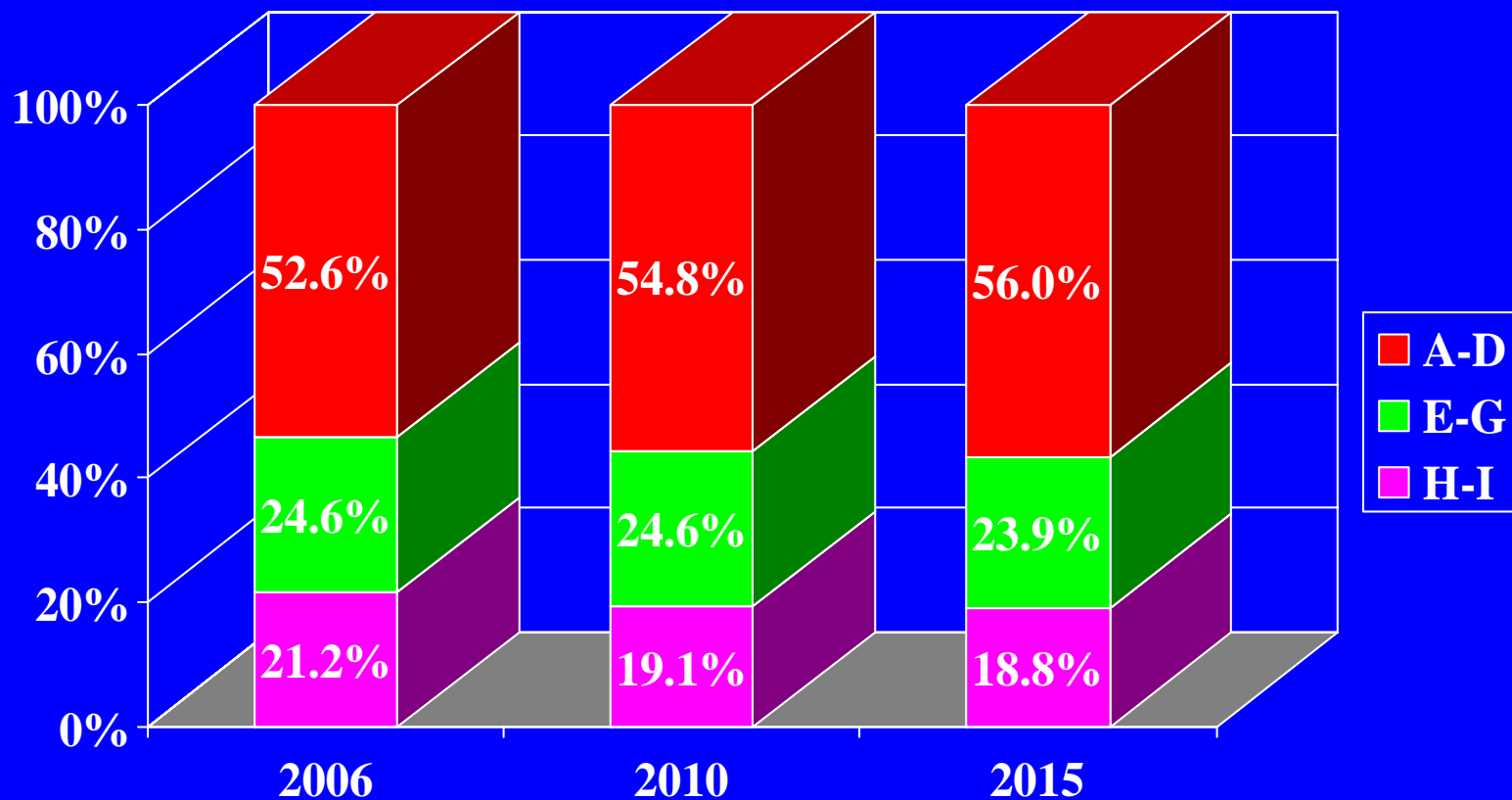
*UPDATED JANUARY 2006*



Note: Prison capacity figures reflect Expanded Operating Capacity.

SOURCE: NC Sentencing and Policy Advisory Commission and NC Department of Correction

# DISTRIBUTION OF THE PROJECTED PRISON POPULATION BY OFFENSE CLASS FELONIES ONLY



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2004/05 Structured Sentencing Simulation Model



# **ADVANTAGES OF STRUCTURED SENTENCING**

- **PROMOTES TRUTH IN SENTENCING**
- **SETS PRIORITIES**
- **ALLOWS EFFICIENT USE OF RESOURCES**
- **ENHANCES CONSISTENCY AND CERTAINTY IN SENTENCING**
- **PROVIDES UNDERLYING RATIONALE FOR SENTENCING**
- **BALANCES POLICY WITH RESOURCES**